

**APPROVED MINUTES  
YORK COUNTY PLANNING COMMISSION**

Regular Meeting  
York Hall, 301 Main Street  
October 8, 2003

**MEMBERS**

Nicholas F. Barba  
John R. Davis  
Frederick W. Harvell  
Alexander T. Hamilton  
Robert D. Heavner  
Alfred E. Ptasznik, Jr.  
Andrew A. Simasek

**CALL TO ORDER**

Chair Andrew Simasek called the regular meeting to order at 7:00 p.m.

**ROLL CALL**

The roll was called and all members except Mr. Hamilton were present [Mr. Hamilton arrived later]. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Maggie Costello, and Amy Parker.

**REMARKS**

Chair Simasek remarked that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

**APPROVAL OF MINUTES**

Mr. Ptasznik moved to adopt the minutes of the September 10, 2003 regular meeting and they were adopted unanimously.

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARING**

**Application No. UP-624-03, Home Depot USA, Inc.:** Request for a Special Use Permit, pursuant to Sections 24.1-306 (Category 10, No. 36) and 24.1-466(g) of the York County Zoning Ordinance, to authorize a home improvement center of more than 80,000 square feet of gross floor area located on a portion of the property of Bulifants, L.P., located at 6700

Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 2-32. The 27.6-acre property is located on the east side of Mooretown Road, approximately 500 feet south of its intersection with East Rochambeau Drive (Route F137). The property is zoned EO (Economic Opportunity) and is designated for Economic Opportunity development in the Comprehensive Plan.

**Ms. Amy Parker**, Senior Planner, discussed the application, summarizing the staff memorandum to the Commission dated October 1, 2003. She concluded the presentation by elaborating on the staff recommendations that are contained as conditions of proposed Resolution PC03-29.

Mr. Hamilton arrived at 7:13.

**Ms. Parker** introduced into the record letters received from James City County and the City of Williamsburg concerning the subject application. They are attached to the minutes of record.

**Ms. Parker** stated the comments contained in the James City County letter concerned screening of dumpsters and HVAC units, landscaped buffers, and exterior light fixtures; all concerns were addressed with proposed approval conditions

The City of Williamsburg, she continued, opposes the application for several reasons. (1) It is their opinion that activities involving bulk storage or distribution of chemical materials under the WMP Overlay Protection District Regulations are not permitted within 500 feet of the required buffer strip. Ms. Parker explained that York County does not interpret retail sales uses to be bulk storage or distribution; and (2) Williamsburg recommended more green space in the parking area and a wider buffer to match greenbelt buffers in Williamsburg and James City County across Mooretown Road. Ms. Parker noted that Mooretown Road is not designated a greenbelt in the Zoning Ordinance. Normally there would be a 20-foot-wide landscaped area required along the road, but with the proffered buffer, it is actually 35 feet wide so it is already beyond Zoning Ordinance requirements, according to Ms. Parker. The front part of the parking lot would meet minimum standards for landscaping and the applicant has included additional landscaping behind the building. If additional green space were required in front it would mean that the building would have to be moved back, closer to the watershed buffer. Staff believed it would be better to have the building as far from the buffer as possible and still meet minimum ordinance requirements.

**Ms. Parker** explained a row of landscaping should be included with the proposed parking area behind the building.

**Mr. Heavner** inquired about whether the staff favors the monument sign, and **Ms. Parker** stated the location that is proposed is not acceptable and that the sign should be required in conjunction with an access. **Mr. Heavner** asked why the pipestem-shaped lot is not acceptable. **Ms. Parker** said the Zoning Ordinance states that flag lots are not an acceptable design except in open space or where topography would preclude a site with normal frontage, which is not the case with this application, and the Subdivision Ordinance does not permit unusually shaped or elongated lots.

**Mr. Davis** inquired about the responsibility to pay for a traffic signal at the shared intersection, and **Mr. Cross** explained the cost would be shared among all the developers in that area.

**Mr. Simasek** asked how much more retail development is designed or being considered along the remainder of Mooretown Road, and **Mr. Cross** said there are three acres of retail development south of the proposed applicant site, and all of the remaining property zoned for retail is comprised of a couple of out-parcels at the southern end of the property under consideration.

**Mr. Carter** explained this application and its out-parcels represent the “last of the really big parcels” in that area that can be developed as retail.

**Chair Simasek** opened the public hearing.

**Mr. Richard Costello**, 10020 Sycamore Landing Road, Williamsburg, AES Consulting Engineers, represented the applicant. Mr. Costello proceeded to introduce the project manager, Mr. Mark Richardson, and other principals.

**Mr. Costello** said the applicant is satisfied with the staff proposal. They want to install an access at the northwest entrance, and do not expect to need the parking spaces along the east side so would consider eliminating those additional spaces to provide another 10 feet of buffer for additional emergency vehicle access.

**Mr. Simasek** asked how many parking spaces are being proposed.

**Mr. Mark Richardson**, 3499 Francis Berkley, Williamsburg, said there currently are 533 spaces and 525 are required. He said the applicants are still working out details with staff on parking area as it relates to outdoor carts and displays.

**Mr. Davis** said that Home Depot USA is a “superb corporate citizen” and cited notable examples of services and supplies the corporation has donated during community crises and national tragedies.

**Mr. Ptasznik** asked if the applicant owns the out-parcel at the front of the parking lot. **Mr. Richardson** said the applicant does not own it.

**Chair Simasek** closed the public hearing.

**Mr. Simasek** expressed his concern that a great deal of land in the north end of the County is being developed for retail use, and cited as an example this application which proposes to develop a Home Depot next to an existing Lowe’s and Wal-Mart. He was not sure it made the highest and best use of the land in that area.

**Mr. Davis** said he could not think of a higher or better use or a better generator of revenue.

**Mr. Heavner** did not think the Planning Commission could justify there is no market share for another home improvement store in the area. He said Home Depot and Lowe’s co-exist in many places and they both seem to do well. It also contributes to competitive pricing. He said he would have no problem voting for approval.

**Mr. Ptasznik** noted that the approval would place the Home Depot directly across the street from a hospital and create a lot of traffic. However, he thought it would be good for the County's economic welfare and saw no reason not to recommend approval.

**Mr. Harvell** remarked that he could not recall ever having seen a Home Depot across the street from a hospital. **Mr. Costello** noted that the proposed hospital would be set far back on a very large parcel and should not be visible from Mooretown Road.

**Mr. Hamilton** asked how traffic could accommodate both the future hospital and the retail development.

**Mr. Richardson** said the roadway had been designed to handle the proposed retail space [along with the hospital traffic].

**Mr. Barba** said the applicant appears to have met the guidelines, the zoning is appropriate, and the applicant is responsible. He thought it would be a good use for the area.

**Mr. Hamilton** asked if fire protection had been thought out, and was told a fire station is nearby on Newman Road and the Fire Marshal reviewed the proposal as a matter of routine.

**Mr. Harvell** opined that large home improvement stores carry as much bulk insecticides, pesticides and herbicides as do wholesale establishments. **Mr. Carter** said the issue about bulk storage of chemicals was raised before Lowe's was approved and the County's response was the same: Retail sales are not considered distribution and the County has been consistent in that interpretation. **Mr. Carter** added he did not think the City of Williamsburg would welcome any development adjacent to the Waller Mill watershed.

**Mr. Harvell** questioned the totals proposed by the applicant for the building and impervious surface areas and the size of land that would remain for drainage; **Mr. Simasek** said all of the figures would be checked during site plan review.

**Mr. Barba** moved the adoption of Resolution PC03-29.

PC03-29

On motion of Mr. Barba, which carried 7:1 (Mr. Harvell objecting), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A HOME IMPROVEMENT CENTER AT 6700 MOORETOWN  
ROAD

WHEREAS, Home Depot USA, L.P. has submitted Application No. UP-624-03, which requests a Special Use Permit, pursuant to Sections 24.1-306 (Category 10, No. 36) and 24.1-466(g) of the York County Zoning Ordinance, to authorize a home improvement center located at 6700 Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 2-32; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of October, 2003 that Application No. UP-624-03 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the establishment of a home improvement center at 6700 Mooretown Road subject to the following conditions:

1. This use permit shall authorize the establishment of a 132,873 square-foot home improvement center located at 6700 Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 2-32.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any construction activities on the subject parcel. Except as modified herein, said site plan shall be in substantial conformance with the plan titled "The Home Depot, Conceptual Plan for Special Use Permit," Sheet 1 of 1, prepared by AES Consulting Engineers, dated 6/4/03 and revised 9/30/03, and building elevation titled "York County, Proposed Retail Development, The Home Depot," prepared by Greenberg Farrow Architecture dated September 18, 2003 and received by the Planning Division September 23, 2003.
3. Freestanding identification signage shall be limited to a single monument sign in substantial conformance with the monument sign elevation dated 8/28/03 and revised 9/22/03, prepared by Chandler Signs. Brick fascia used on the base of the sign shall match that of the building façade.
4. Free standing and building lighting shall incorporate the use of full cut-off fixtures that are shielded and directed downward to prevent off-site illumination. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA).
5. To accomplish screening of the parking lot, landscaping in the 10-foot wide planting bed bordering the western end of the parking lot shall be a mix of evergreen trees and shrubs. Evergreen trees shall be spaced at a maximum of 20 feet. Landscaping in the side yards shall be a mix of evergreen and deciduous trees and shrubs, with not less than 50% of tree and shrub plantings as evergreen species.

6. Notwithstanding provisions of Section 24.1-376(e)(2) of the County Zoning Ordinance, there shall be no reduction of the 200-foot stream buffer paralleling Queen Creek.
7. Areas utilized for outdoor display of merchandise for sale on-premises shall be limited to those areas immediately in front of the face of the building and garden center, and shall not encroach upon parking spaces, aisles, designated required landscaped yards or infiltration yards.
8. All areas utilized for outdoor storage of materials shall be contained within fencing and screened from off-site view. If chain link or other similar open fencing is utilized, netting of a color, type, and material acceptable to the Zoning Administrator shall be installed on the fence.
9. Rooftop HVAC, electrical and similar utilities shall be screened from view of Mooretown Road.
10. The loading dock/compactor area shall be covered, and the compactor facility shall be constructed with waterproof flooring and walls.
11. Nothing in this Use Permit shall be construed as authorizing the proposed subdivision configuration creating a "pipe stem" at the northwest corner of the applicant's site as depicted in the above-referenced plan.
12. Nothing in this Use Permit shall be construed as authorizing the proposed "future joint/shared access easement" and corresponding driveway entrance within the northern end of the 3.7-acre residual parcel as shown on the above referenced plan.
13. The applicant shall provide right of vehicular access to future developers/property owners of parcels as may be subdivided from the abutting 3.7-acre residual parcel to connect, at their expense, their sites and the Home Depot parking area at such locations as are approved by the County.
14. Parking behind the rear of the building shall be designed to be located against the outside (western) edge of the site, and end landscape islands shall be installed in addition to the center island as shown on the above-referenced plan.
15. At the time of subdivision approval, a restricted access easement satisfactory to the Subdivision Agent shall be established along Mooretown Road across the entire frontage of the 27.6-acre subject parcel identified as Assessor's Parcel No. 2-32. In addition to the entrance in the southwest corner of the applicant's site as shown on the above-referenced plan, a second entrance may be approved by the Subdivision Agent to jointly serve the applicant's property and future parcels that may be subdivided from the 3.7-acre residual parcel shown on the plan, providing documentation satisfactory to the Subdivision Agent is submitted justifying the need for the entrance relative to public welfare and safety.

16. At time of subdivision approval, a joint access easement serving the applicant's parcel and the adjacent parcel to the south shall be established as generally shown in the southwest corner of the applicant's parcel on the above-referenced plan.
17. Calculation of minimum required parking spaces shall be exclusive of spaces utilized for cart storage.
18. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
19. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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## **OLD BUSINESS**

There was no old business.

## **NEW BUSINESS**

**Sponsor text amendment application**, the purpose of which is to bring the Zoning Ordinance into conformance with recently revised Chesapeake Bay Preservation Area Regulations (PC03-30).

Mr. Mark Carter elaborated on the application and its purpose, and recommended that the Commission vote to sponsor it. Mr. Ptaszniak moved adoption of Resolution PC03-30.

### PC03-30

On motion of Mr. Ptaszniak, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1 - YORK COUNTY CODE) TO REVISE VARIOUS PROVISIONS CONTAINED IN SECTION 24.1-372 – EMA-ENVIRONMENTAL MANAGEMENT AREA OVERLAY DISTRICT IN ORDER TO REFLECT CHANGES IN THE CHESAPEAKE BAY PRESERVATION AREA REGULATIONS PROMULGATED BY THE CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

WHEREAS, the Chesapeake Bay Local Assistance Board has adopted amendments to the Chesapeake Bay Preservation Area regulations which necessitate certain changes and adjustments in

the Chesapeake Bay Preservation Area regulations contained in the York County Zoning Ordinance; and

WHEREAS, County staff is preparing draft amendments for review and consideration, including certain revisions in response to decisions just made by the Chesapeake Bay Local Assistance Board at its September 15, 2003 meeting; and

WHEREAS, in order to be as responsive as possible to the December 31, 2003 deadline for adoption established by the Chesapeake Bay Local Assistance Board, the Planning Commission has scheduled a work session on the subject for October 29, 2003 and the proposed amendments, as adjusted, will be available at and prior to that meeting.

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of October, 2003 that it does hereby sponsor an application to amend Chapter 24.1 - Zoning - of the York County Code to revise Section 24.1-372 – EMA – Environmental Management Area Overlay District in order to reflect changes in the Chesapeake Bay Preservation Area Regulations promulgated by the Chesapeake Bay Local Assistance Board, such amendments to be completed and distributed by staff no later than October 28, 2003.

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#### **STAFF REPORTS**

Mr. Carter reported that the Board took no action on the Colony Pines application because the applicant requested that it be deferred. It should come back to the Board this year but the date is uncertain.

The Board sponsored a text amendment application proposing that the building spacing requirement in cluster developments be set at a minimum of 20 feet. The Planning Commission will have that application for consideration in November, Mr. Carter said, and noted the other applications scheduled for November public hearing of the Commission.

Mr. Carter reminded the Commission of its work session October 29th to discuss the proposed zoning text amendments scheduled for public hearings in November.

#### **COMMITTEE REPORTS**

Mr. Barba reported the Route 17 Corridor Revitalization Committee's findings were presented to the Board of Supervisors in September and the Board plans to review the report at a future work session.

#### **COMISSION REPORTS AND REQUESTS**

Mr. Davis commented that the hurricane that recently brought devastation and considerable loss to Virginia affected many citizens of the County. Mr. Davis noted that almost all establishments that normally sell such necessities as food and gasoline were closed for business for many days after the storm, due to the massive power outages. He opined that, as a result, the situation became more severe than it needed to be because of ensuing panic and looting. Mr. Davis suggested the County



require stores that sell basic necessities to have backup generator systems, which should also become a requirement for approval of Special Use Permits. He suggested the same requirement be adopted for all stores, to be phased in over the next several years. He did not think the citizens should be placed at that kind of risk again.

**ADJOURNMENT**

Chair Simasek adjourned the meeting at 7:56 p.m.

**SUBMITTED:**       /s/  
Phyllis P. Liscum, Secretary

**APPROVED:**       s/s  
Andrew A. Simasek, Chair

**DATE:** November 12, 2003